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OFFICE OF PETITIONS

In re Application of  
Ming-Fu Kuo  
Application No. 10/700,493  
Filed: November 5, 2003  
Attorney Docket No. 3226/22

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:  
: DECISION ON PETITION  
: UNDER 37 CFR 1.181  
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This is a decision on the Request for Reconsideration filed November 29, 2006, which is being treated under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is dismissed.

Any request for reconsideration should be filed within two (2) months from the mailing date of this decision. Note 37 CFR 1.181(f).

This application was held abandoned for failure to timely pay the issue fee and publication fee in reply to the Notice of Allowance (Notice) mailed March 23, 2005.

Petitioner asserts that failure to timely reply was due to nonreceipt of the Notice of March 23, 2005.

The Office follows the guidelines set forth in MPEP § 711.03(c) (see also "Withdrawing the Holding of Abandonment When Notices Are Not Received," 1156 *Official Gazette* 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record.

A review of the written record indicates no irregularity in the mailing of the Notice and is presumed to have been properly mailed to the address of record.<sup>1</sup>

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<sup>1</sup>A Change of Address was received in the USPTO on April 27, 2006.

Petitioner states that Applicant's Customer Number was properly identified on Applicant's Application Transmittal and on the Declaration Power of Attorney filed on November 5, 2003.

Petitioner should be aware that the number on the transmittal and the declaration mentioned above is not identified as a customer number. Also, on the declaration, petitioner stated to direct all correspondence to: DENNISON, SCHULTZ & DOUGHERTY, 612 CRYSTAL SQUARE 4, 1745 JEFFERSON DAVIS HIGHWAY, ARLINGTON, VA 22202-3417.

**Petitioner's arguments of November 29, 2006, were not found persuasive that the original decision dismissing petition filed March 29, 2006, was in error.**

For the reasons stated above, the petition to withdraw the holding of abandonment cannot be granted at this time.

Petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR 1.137(b). Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice*, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997). An "unintentional" petition must be accompanied by the required petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement of unintentional delay is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

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By fax:           (571) 273-8300  
                  ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

A handwritten signature in black ink, appearing to read "Karen Creasy". The signature is fluid and cursive, with a large initial "K" and a stylized "C".

Karen Creasy  
Petitions Examiner  
Office of Petitions